

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

United States of America,	)	CRIMINAL NO. 3:10-580
	)	
v.	)	<b>OPINION and ORDER</b>
	)	
Anthony Lee Williams,	)	
	)	
Defendant.	)	
_____	)	

Defendant, proceeding *pro se*, has filed a motion for relief under 28 U.S.C. § 2255. ECF No. 627.

Defendant filed a prior motion for relief pursuant to 28 U.S.C. § 2255 on November 9, 2011. ECF No. 552. On August 15, 2012, the court granted Defendant's § 2255 motion in part and Defendant was resentenced. ECF No. 585, 592.

The current motion is a successive § 2255 motion. Defendant's failure to seek permission to file a second or successive motion in the appropriate court of appeals prior to the filing of the motion in the district court is fatal to the outcome of any action on the motion in this court.<sup>1</sup> Prior to filing a second or successive motion under § 2255, Defendant must obtain certification by a panel of the Fourth Circuit Court of Appeals allowing him to file a second or successive motion. As provided in 28 U.S.C. § 2244, "[b]efore a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application." 28 U.S.C. § 2244(b)(3)(A).

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<sup>1</sup> The court is aware that Defendant has filed a § 2244 petition with the Fourth Circuit Court of Appeals. However, until that court grants Defendant permission to file a successive § 2255, this court has no jurisdiction to consider this motion.

*See also* Rule 9 of the Rules Governing 2255 Proceedings (“Before presenting a second or successive motion, the moving party must obtain an order from the appropriate court of appeals authorizing the district court to consider the motion . . .”). Defendant has not received an order from the Fourth Circuit authorizing filing of a successive § 2255.

The requirement of petitioning a court of appeals (in this instance, the Fourth Circuit) for permission to file a second or successive motion is jurisdictional. Therefore, Defendant’s failure to move for permission in the Fourth Circuit Court of Appeals prior to filing this § 2255 motion is fatal to any action in this court.<sup>2</sup> This motion is dismissed as this court is without jurisdiction to consider it.

**IT IS SO ORDERED.**

s/ Cameron McGowan Currie  
CAMERON MCGOWAN CURRIE  
Senior United States District Judge

Columbia, South Carolina  
May 26, 2016

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<sup>2</sup> “A 1-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of--

- (1) the date on which the judgment of conviction becomes final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review . . . .”

28 U.S.C. § 2255(f)(1)-(3).